

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**EDGAR BACHMAN BROWNE,**

Plaintiff,

**v.**

**CIVIL ACTION NO.: 3:23-CV-93  
(GROH)**

**CPL. EDWARD BOOTH,**

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation (“R&R”) of United States Magistrate Judge Robert W. Trumble. Pursuant to the Local Rules, this civil action was referred to Judge Trumble for submission of a proposed R&R. Magistrate Judge Trumble issued an R&R [ECF No. 30] on October 12, 2023. In the R&R, Judge Trumble recommends that the Plaintiff’s Complaint [ECF No. 1] be dismissed without prejudice.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a de novo review of those portions of the magistrate judge’s findings to which objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and of a Plaintiff’s right to appeal this Court’s Order. 28 U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir.

1984).

Objections to Magistrate Judge Trumble's R&R were due within fourteen plus three days of the Plaintiff being served with a copy of the same. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The R&R was received at the institution where Plaintiff was being held on October 17, 2023. ECF No. 32. However, the R&R was returned by the facility with a notation that the Plaintiff was no longer there. ECF No. 31.

On November 20, a month after the Plaintiff was no longer at the address on file with the Clerk of Court, he filed a Notice of change of address. ECF No. 33. The Clerk then mailed a copy of the R&R to the Plaintiff's new address. ECF No. 34. The Plaintiff accepted service on November 24, 2023. ECF No. 35. The Court finds that the deadline for the Plaintiff to submit objections to the R&R has passed. No objections were filed. Accordingly, the R&R is reviewed for clear error.

Upon careful review of the R&R, it is the opinion of this Court that Magistrate Judge Trumble's Report and Recommendation [ECF No. 30] should be, and is hereby, **ORDERED ADOPTED** for the reasons more fully stated therein. The Defendant's Motion to Dismiss [ECF No. 16] is **GRANTED**, and the Plaintiff's Complaint is **DISMISSED WITHOUT PREJUDICE**. ECF No. 1.

The Clerk of Court is **DIRECTED** to mail a copy of this Order to the Plaintiff by certified mail, return receipt requested, at his last known address as reflected on the docket sheet.

**DATED:** December 12, 2023

  
GINA M. GROH  
UNITED STATES DISTRICT JUDGE